

AMENDED IN SENATE JULY 1, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1329

Introduced by Assembly Member Brownley

February 27, 2009

An act to add Part 9 (commencing with Section 49750) to Division 30 of the Public Resources Code, relating to product management.

LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, Brownley. Product management: ~~polyvinyl chloride (PVC) packaging~~; *single-use recyclable packaging containers*.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, prohibits a person from selling a food or beverage container in this state that is labeled with the term “compostable” or “marine degradable,” unless the food or beverage container meets certain requirements.

~~This bill, on and after January 1, 2013, would prohibit a retail establishment, as defined, from selling, distributing, or importing in commerce a rigid polyvinyl chloride packaging container, as defined. The bill, on and after January 1, 2014, would prohibit a retail establishment from selling, distributing, or importing in commerce a flexible polyvinyl chloride packaging container, as defined.~~

This bill, on and after July 1, 2014, would prohibit a retail establishment or retailer, as defined, from selling, distributing, or importing in commerce a single-use recyclable packaging container,

as defined, that is comprised predominantly of polyvinyl chloride plastic resin.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Part 9 (commencing with Section 49750) is added to Division 30 of the Public Resources Code, to read:

PART 9. PRODUCT MANAGEMENT

CHAPTER 1. DEFINITIONS

CHAPTER 2. POWERS AND DUTIES

CHAPTER 3. ENFORCEMENT AND PENALTIES

CHAPTER 4. ~~PVC PACKAGING MATERIALS~~ PLASTIC RECYCLING
CONTAMINATING CONTAINERS

49750. For the purposes of this chapter, the following terms have the following meanings:

(a) ~~“Flexible polyvinyl chloride packaging container” means a container that is used to contain, hold, protect, or display another product, alone or in combination with paperboard or other materials, if all of the following conditions apply:~~

(1) ~~Polyvinyl chloride plastic resin is the primary component of the container.~~

(2) ~~The container is only intended to hold, protect, or display another product until that product is opened or consumed, at which point the container serves no function for the continued use or long-term storage of the product and is intended to be discarded.~~

(3) ~~The container has the shape of a sack, pouch, or other packaging shape, including a shrink or stretch wrap.~~

(4) ~~The container has a flexible shape or form.~~

(b) ~~“Retail establishment” or “retailer” means an individual, partnership, corporation, association, or other legal relationship that engages in the business of selling goods to retail buyers.~~

1 ~~(e) “Rigid polyvinyl chloride packaging container” means a~~
2 ~~container that is used to contain, hold, protect, or display another~~
3 ~~product, alone or in combination with paperboard or other~~
4 ~~materials, if all of the following conditions apply:~~

5 ~~(1) Polyvinyl chloride plastic resin is the primary component~~
6 ~~of the container.~~

7 ~~(2) The container is only intended to hold, protect, or display~~
8 ~~another product until that product is opened or consumed, at which~~
9 ~~point the container serves no function for the continued use or~~
10 ~~long-term storage of the product and is intended to be discarded.~~

11 ~~(3) The container has the shape of a cup, bottle, bowl, clamshell,~~
12 ~~or other packaging shape.~~

13 ~~(4) The container has an inflexible or finite shape or form and~~
14 ~~is capable of maintaining its shape while holding other products~~
15 ~~and has essentially the same shape empty as full.~~

16 ~~(d) “Rigid polyvinyl chloride packaging container” and “flexible~~
17 ~~polyvinyl chloride packaging container” do not include any of the~~
18 ~~following:~~

19 ~~(1) A container that encloses a dangerous drug, as defined in~~
20 ~~Section 4022 of the Business and Professions Code, or a container~~
21 ~~that encloses an over-the-counter human or veterinary drug,~~
22 ~~including, but not limited to, a drug as defined in Section 109925~~
23 ~~of the Health and Safety Code or as defined in Section 321 of Title~~
24 ~~21 of the federal Food, Drug, and Cosmetic Act.~~

25 ~~(2) A container in which a medical device, as defined in Section~~
26 ~~109920 of the Health and Safety Code, is enclosed.~~

27 ~~49751. (a) On and after January 1, 2013, a retail establishment~~
28 ~~shall not sell, distribute, or import in commerce a rigid polyvinyl~~
29 ~~chloride packaging container in this state.~~

30 ~~(b) On and after January 1, 2014, a retail establishment shall~~
31 ~~not sell, distribute, or import in commerce a flexible polyvinyl~~
32 ~~chloride packaging container in this state.~~

33 ~~49750. The Legislature finds and declares all of the following:~~

34 ~~(a) It is the intent of the Legislature to increase plastic recycling~~
35 ~~in California.~~

36 ~~(b) Polyvinyl chloride plastic resin is a potent contaminant in~~
37 ~~recycling of commonly recycled plastics.~~

38 ~~(c) Containers made from polyvinyl chloride plastic resin look~~
39 ~~identical to containers made from commonly recycled plastic resins~~
40 ~~and cannot be efficiently sorted out from the recycling stream.~~

1 (d) Removing polyvinyl chloride plastic resin from container
2 types that are present in plastic recycling will increase plastic
3 recycling, strengthen California's recycling infrastructure, and
4 increase material diversion from landfills.

5 49751. For the purposes of this chapter, the following terms
6 have the following meanings:

7 (a) "Retail establishment" or "retailer" means an individual,
8 partnership, corporation, association, or other legal relationship
9 that engages in the business of selling goods to retail buyers.

10 (b) (1) "Single-use recyclable packaging container" means a
11 container that meets all of the following conditions:

12 (A) A container used to contain, protect, or hold a consumer
13 good, food, or beverage until that item is opened or consumed,
14 after which point the container serves no other function and is
15 intended to be discarded.

16 (B) The container has the shape of a bottle, clamshell, sack,
17 cup, bowl, shrink or stretch wrap, or other packaging shape.

18 (2) "Single-use recyclable packaging container" does not
19 include any of the following:

20 (A) A container used solely in transportation and not made
21 available to consumers.

22 (B) A container that is used solely for the transportation and
23 protection of a building material, including, but not limited to,
24 windows and related products used in residential construction.

25 (C) A container that encloses a dangerous drug, as defined in
26 Section 4022 of the Business and Professions Code, or a container
27 that encloses an over-the-counter human or veterinary drug,
28 including, but not limited to, a drug as defined in Section 109925
29 of the Health and Safety Code or as defined in Section 321 of Title
30 21 of the federal Food, Drug, and Cosmetic Act.

31 (D) A container in which a medical device, as defined in Section
32 109920 of the Health and Safety Code, is enclosed.

33 (E) A container that is used to contain a petroleum-based
34 product, including a fuel, lubricant, fuel additive, or other
35 petroleum-based products used on or in motor vehicles.

36 49752. On and after July 1, 2014, a retail establishment or
37 retailer shall not sell, distribute, or import in commerce a

- 1 *single-use recyclable packaging container that is comprised*
- 2 *predominantly of polyvinyl chloride plastic resin.*

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